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Remarks

The present response is to the Office Action mailed in the above-referenced case on April 06, 2004. Claims 1-4, 17-19, 21 and 22 are presented below for examination. The Examiner has maintained the rejections of claims 18-19 and 22 under 35 U.S.C. 102(e) as being anticipated by Tognazinni, the rejection of claims 1-4 and 17 under 35 U.S.C. 103(a) as being unpatentable over Tognazinni, and the rejection of claim 21 under 35 U.S.C. 103(a) as being unpatentable over Tognazinni in view of Ichinose.

Applicant has again carefully studied the prior art cited and applied by the Examiner, and the Examiner's statements and rejections of the instant Office Action. In response, applicant herein amends the claims to more particularly point out and distinctly claim the subject matter of applicant's invention regarded as patentable. Applicant provides further argument that the prior art of record fails to anticipate all of the limitations of applicant's claims as amended, which clearly distinguish applicant's invention over the prior art.

Applicant herein amends the language of claim 18 to specifically recite setting and initiating selective playback or permanent storage of media from a user-interface on a recording device coupled with a streaming audio or audio-visual media presentation device, wherein in step (b), a specific media portion within the specific time period of the continuous-loop recording is identified from the media presentation, by inserting into the continuous loop recording at any point and in real-time during the media presentation, a first flag marking the beginning of, and a second flag marking the end of the identified media portion. Applicant reproduces claim 18 below as amended for convenience.

Applicant's claim 18 as amended now recites:

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18. (currently amended) A method for setting and initiating selective playback or permanent storage of media from a user-interface on a recording device coupled with a streaming audio or audio-visual media presentation device comprising steps of:

(a) initiating sequential continuous-loop recording of a specific time period of the presented media;

(b) identifying from the media presentation a specific media portion within the specific time period of the continuous-loop recording by inserting into the continuous-loop recording at any point and in real time during the media presentation, a first flag marking the beginning of, and a second flag marking the end of the identified media portion;

(c) activating a flag-set indicia from a user interface on the recording device;

(d) activating a recover indicia from the user interface of step (c), the recover operation for retrieving the flagged media; and

(e) initiating playback or media store of the flagged portion of media.

Applicant's independent claim 1 is the apparatus claim of applicant's invention in accordance with the method of claim 18. Applicant accordingly herein amends the language of claim 1 to agree in language with claim 18 as amended, specifically reciting a recording device coupled with a conventional streaming audio or audio-visual media presentation device, comprising a user interface having an input for inserting into the recorded media at any point and in real-time during the media presentation, the first and second flags identifying the media portion.

In the Examiner's rejection of claim 18 set forth in the instant Office Action, the Examiner has maintained that Tognazinni discloses applicant's method

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for setting and initiating selective playback or permanent storage of stored audio
or audio-visual media, comprising all of the method steps of applicant's claim,
including step (b) identifying a specific media portion within the specific time
period of the continuous-loop recording by inserting into the media portion at any
point, in real-time during the media presentation, the first flag marking the
beginning of, and a second flag marking the end of the identified the portion, and
the Examiner cites col. 8, lines 27-61.

Tognazinni, however, as taught in the Abstract portion of the specification,
teaches in one implementation a decision to record a piece of music from the
beginning can be made any time during the playing of the music, or in other
implementations, deciding to record a video program from the beginning can be
made during the program, or in a connected portable video camera, a decision
after an event, to record the event based on the possibility of the event happening.

Applicant has emphasized the repeated disclosure of "from the beginning",
because in all cases, regardless of the program source, with the exception of the
video camera source 800 disclosed in figure 8 of the specification, Tognazinni
only teaches, after the beginning of a program has passed, deciding to record or
store the music, video, or television program, for example, from the program's
beginning, which is a predetermined starting mark, and which is not identified by
the operator of the recorder user interface. A delayed recording circuit introduces
delay between the program source and the recording device and selectively
activates the recording device to record information from the source from its
beginning, after it has been delayed.

Therefore, the selectivity in Tognazinni of the portion of the media worthy
of recording and identified by flagging, is substantially compromised as compared
to applicant's invention, because in Tognazinni the starting point is not settable by
the user, but is always the beginning of the program, which Tognazinni teaches is
identified by comparing the output of a clock with known program starting times,

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which are predetermined and published, or by receiving program starting and/or stopping information from an external communication link. Tognazinni identifies the start point for the start flag by selecting from pre-known and determined program start times.

Applicant's invention, in contrast, teaches and claims identifying from a streaming audio or audio-visual media presentation, a specific media portion within the continuous loop recording, by inserting the first flag into the media portion at any point in the continuous loop recording and in real-time during the media presentation, marking the beginning of the portion worthy of recording, and inserting the second flag marking the end of the identified portion. The key distinction in applicant's invention over Tognazinni is that the selection of the first flag marking the beginning of the portion of the streaming audio or audio-visual media worthy of recording, may be inserted by the user of the recorder user interface at the beginning or after the beginning of the media presentation, and the first flag insertion point within the continuous loop recording is completely selectable by the user, not just identified from a selection of program start times which are predetermined, as in the teaching of Tognazinni.

Tognazinni teaches, with reference to figure 8, the use of a portable video camera 800, wherein the starting flag marking the beginning portion of an event is inserted, whether or not the event worthy of recording ever takes place. Tognazinni uses the example of making a decision to record a boy's turn at bat after the boy hits a home run, as described in the portion cited and applied by the Examiner (col. 8, lines 27-61).

However, applicant respectfully points out that Tognazinni, in this particular application, is not identifying the specific portion by inserting the first and second flag during the presentation, or in this case, the event worthy of recording, because the event worthy of recording has not yet taken place, and may not take place at all, and at this point, only the first flag is inserted marking the

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beginning of a possible recording of a worthy event. The final selection and identification by start and end flagging of the specific portion worthy of recording then, according to Tognazinni, is not identified until after the event has taken place, or in this case, after the boy hits the home run.

Tognazinni therefore fails to disclose applicant's specific claim limitation of identifying the specific media portion by inserting the first and second flags into the media portion at any point in the continuous loop recording and in real-time during the media presentation. Tognazinni fails to teach placing a first flag marking the beginning of an identified media portion, in response to the media being presented and recorded via the continuous loop recording process, while the streaming audio or audio-visual media is presented to the user.

Applicant therefore believes claim 18 is now clearly and unarguably patentable as amended and argued above by applicant, over the art of Tognazinni. The Examiner has rejected claims 1-4 as unpatentable over Tognazinni in view of Official Notice taken, and has rejected claim 21 as unpatentable over Tognazinni in view of Ichinose.
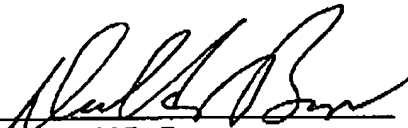
In view of applicant's above amendments to the independent claims and supporting argument presented, Tognazinni now clearly fails as a primary reference for anticipating applicant's claims, or for combining with Official Notice or the reference of Ichinose to produce applicant's invention. Claims 1 and 18 are therefore patentable over the prior art presented either singly or in combination, and depending claims 2-4, 17, 19 and 22 are then patentable on their own merits, or at least as depended from a patentable claim.

As all of the claims as amended and argued above have been clearly shown to be patentable over the prior art presented by the Examiner, applicant respectfully requests that the rejections be withdrawn, and that the case be passed quickly to issue. If any fees are due beyond fees paid with this amendment, authorization is made to deduct those fees from deposit account 50-0534. If any

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time extension is needed beyond any extension requested with this amendment, such extension is hereby requested.

Respectfully submitted,
Mark A. Boys

by _____
Donald R. Boys
Reg. No. 35,074

Donald R. Boys
Central Coast Patent Agency
P.O. Box 187
Aromas, CA 95004
(831) 726-1457